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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,690	10/14/2003	Reid Cover	S*E Case 236A	7068

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FLYNN, THIEL, BOUTELL & TANIS, P.C.
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EXAMINER

HUH, BENJAMIN

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/685,690	Applicant(s) COVER ET AL.	
	Examiner Benjamin Huh	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52 and 55-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 65-68 and 78 is/are allowed.
- 6) ☒ Claim(s) 55-64 and 69-77 is/are rejected.
- 7) ☒ Claim(s) 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Election/Restrictions

The Election/Restriction requirement filed 11/01/06 is withdrawn.

Claim Objections

Claim 52 is objected to because of the following informalities: line 12 states a "second flow control" but due to the amendments made to the claim there is no longer a "first flow control", the applicant is suggested to amend the claims to clarify. Appropriate correction is required.

Specification

The disclosure is objected to because of the following informalities: page 7 line 6 contains a minor typo which states "ycorresponding".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 58-64 & 69-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Vincent et al (US Patent No. 5993410). The Vincent et al reference discloses in figures 1-5 a surgical suction irrigation handpiece 100 comprising a housing having a suction port, where hose 31 is attached to, an irrigation port, where hose 32 is attached to, and a third port 13 opposable to a surgical site via shaft 14; an irrigation liquid flow control assembly 22 on said housing; a suction flow control assembly 24 on said housing: comprising a first, relatively high rate, suction flow path between said suction port, which is a full open position, and the third port when the actuator 60 is fully depressed, and a second, relatively low rate, suction flow path separate from the first suction flow path and located between said suction port and the third port, when the assembly is rotated, see col. 6 lines 25-46.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinnanti (US Patent No. 5348555) in view of Saravia et al (US Patent No. 5484402).

The Zinnanti reference discloses a surgical suction irrigation handpiece comprising a housing 12 comprising a suction port 68 connectable to a suction source, an irrigation liquid inlet port 66, and a third port 36 opposable to a surgical site; an irrigation liquid flow control assembly 98 on the housing; a suction flow control assembly (96,100) seen in figure 9 on the handpiece including a hand engagable reciprocating member 100 and a hand engagable rotating member 96 adjacent said hand engagable reciprocating member; in which the reciprocating valve element can have a closed position when the member is in the up position and not allowing any flow and wherein the rotating valve element can have an open position defining a suction flow bypass around the reciprocating valve element, when it is seen that the reciprocating valve does not have to be closed simultaneously when the rotating valve is open; a suction flow path seen as part of path 30 between said third port and suction port, also see col. 3 lines 29-68.

Even though the Zinnanti reference does not explicitly disclose a remote irrigation liquid pump unit attention is directed to Saravia et al. The Saravia et al reference discloses the use of a irrigation liquid pump, see claims 1, 4, 6, 8, & 14, therefore it would be obvious to one of ordinary skill in the art at the time of the invention to incorporate the irrigation liquid pump of Saravia into the device of Zinnanti in order to produce a desired flow rate for the irrigation process.

Claims 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent et al (US Patent No. 5993410) as applied above in the 102 rejection and further in view of Saravia et al (US Patent No. 5484402). Even though the Vincent reference does not explicitly disclose a remote irrigation liquid pump unit attention is directed to Saravia et al. The Saravia et al reference discloses the use of a irrigation liquid pump, see claims 1, 4, 6, 8, & 14, therefore it would be obvious to one of ordinary skill in the art at the time of the invention to incorporate the irrigation liquid pump of Saravia into the device of Vincent in order to produce an increased desired flow rate for the irrigation process.

Allowable Subject Matter

Claim 52 would be allowable once the minor objection for clarification is fixed as stated above.

Claims 65-68 & 78 are allowed.

Response to Arguments

The double-patenting rejection has been withdrawn due to the filing of a Terminal Disclaimer.

Applicant's arguments filed 8/7/06 have been fully considered but they are not persuasive.

Applicant argues for claim 55 that Zinnanti does not disclose a rotatable valve element, the examiner disagrees. The rotatable valve element is seen to be the

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rotatable stop nut, which is deemed to still be a rotatable valve element since it is an element upon that the valve that is rotatable under it's broadest reasonable interpretation.

Applicant's arguments with respect to the rest of the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Huh whose telephone number is 571-272-8208. The examiner can normally be reached on M-F: 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BKH

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

